had testified like a witness! The favorite plan for reform, at present, is that of the appointment of a commission of experts by the judges, to be paid for their services by the State. According to some, such a commission should be permanent, while others would prefer to have experts appointed only for individual cases as they came up. Either scheme would certainly be an improvement on the existing method.

IS A PAROL GIFT TO A BAILEE VALID? — The general question, whether a mere bailee of a chattel can be changed into its absolute owner by bare words of the bailor, appears to have been decided, for the first time in England, in the recent case of *Cain* v. *Moon*, [1896] 2 Q. B. 283. In that case the owner of a chattel delivered it to the defendant for safe keeping, as the court understood the facts; and afterwards, being seriously ill, she said to the defendant, "The note is for you if I die." The court here found a good *donatio mortis causa*, holding that, although a delivery of the chattel was necessary, as in the case of a gift *inter vivos*, the antecedent delivery with a different intent was sufficient. The decision went expressly on the ground that there was no direct authority on the point either way, and that it seemed reasonable that an antecedent delivery should be held sufficient, without requiring the intended donee to go through the form of handing back the chattel and again receiving it. It will be noticed that the court assume without discussion that the rule making delivery essential to the validity of the gift is to be applied in the same manner to a *donatio mortis causa* and a gift *inter vivos*. They do not give their theoretical view as to the nature of the transaction; but there seems to be no objection to calling it a parol license to the bailee to keep the chattel, which is acted upon by the bailee, and therefore becomes irrevocable. As a mere release of the bailor's right of action the words are, of course, without effect. Several American courts have reached, without much discussion, the same result as the court in *Cain* v. *Moon*. Two cases in point are *Providence Savings Inst.* v. *Taft*, 14 R. I. 502, and *Porter* v. *Gardner*, 60 Hun, 591.

LEGAL CAUSE. — The task of formulating a satisfactory rule for determining the existence of cause and effect in deciding whether, in an action based on tort, a plaintiff may hold a defendant liable for injuries to the former, continues to vex the courts. The Supreme Court of Canada recently handed down what is submitted to be a correct decision in *Grinsted* v. *Toronto Ry. Co.*, 24 S. C. R. 570. The facts were similar to those so often appearing in cases of this sort. The plaintiff, wrongfully ejected from one of the company's cars on a winter's night, took cold, and suffered an attack of bronchitis and rheumatism. He was allowed to recover for the sickness as an injury resulting from the defendant's act. The court rested their decision on the ground that the question whether the result was *proximate and natural* was to be determined by the jury.

So many rules, theories and maxims regarding Legal Cause have been evolved from the time of Lord Bacon down to the present day, that there is now a profusion of recorded thought tending to confuse a fundamentally important subject. It is submitted that to begin with the simplest possible statement of the question is the proper way to work

out the true rule, if there is one. When a plaintiff comes into court and shows that he has suffered such damage as the law will recognize, and that the defendant's conduct has failed to come up to the standard required by law, the point in issue is simply, Did the defendant do this? It is certainly possible to contend that the average juror might better be trusted to work out justice in answering the question thus stated according to the dictates of common sense, than in applying a complicated rule of law, however elaborately it be explained. If, however, a rule can be phrased which will embody the real intent and meaning of this simple question, and will do nothing more, such rule will have the decisive advantage of precision. The effort to find a more definite form in which to leave the issue to the jury, then, is certainly worth while. It is suggested that the solution was reached when the idea of looking at the chain of events from the "after" point of view was conceived. Wardlaw, J., in *Harrison* v. *Berkley*, 1 Strob. 525; Earl, J., in *Ehrgott* v. *Mayor of New York*, 96 N. Y. 280; *Smith* v. *London & Southwestern Ry. Co.*, 6 Com. Pl. 14. If it appear that in fact nothing which could be an efficient cause has intervened between the act complained of and the ensuing harm, the causal connection between the two would seem to be sufficiently established. In such a case, the fact that the result was one not reasonably to have been foreseen, or not found likely to occur on calculation of chances, would certainly not make the defendant's act any less the cause. The fact that the consequence was probable is important in that such probability determines, in a measure, the character of the defendant's act. That is, the occurrence of an injury which was or should have been foreseen would appear to be a natural and proximate result, even though circumstances intervened which would break the causal connection had the result not been contemplated. (Lord Wensleydale in *Lynch* v. *Knight*, 9 H. L. Cas. 577.) The Supreme Court of Canada in laying down the natural and proximate rule adopted the proper definite form of leaving with the jury the question, Did the defendant do this wrong?

CONSTITUTIONALITY OF BI-PARTISAN POLICE COMMISSION LAW. — A few months ago the legislature of New York passed a statute providing for the appointment of four police commissioners by the Common Council of Albany. It was stipulated that no person should be eligible for the office who was not a member of one of the two leading political parties in the Common Council, and that not more than two of the commissioners should be elected from either party. The opponents of the statute were not slow to assert that the State legislature had no power to prescribe any such qualifications for municipal officers; that the statute was an unwarrantable interference with the right of local self-government; and that, even apart from this, the statute was unconstitutional as arbitrarily rendering ineligible for the office the class of citizens who belong to neither of the leading political parties. The Court of Appeals, in *Rathbone* v. *Wirth*, 45 N. E. Rep. 15, has recently sustained these contentions. The opinion of Gray, J., embodies a valiant defence of the right of municipal home rule against the slightest encroachments. The learned judge speaks of the question as one "of surpassing importance to the citizens of the State," and deals with it throughout in a very statesmanlike manner. He maintains that under the article of the State constitution which provides that municipal officers shall be elected by the inhabitants of the municipality, or